IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 8562 of 2005
Date of Decision: 29.09.2006

Swaran Singh ....Petitioner

versus

Union of India and others .....Respondents

CORAM : HON'BLE MR. JUSTICE M.M.KUMAR
HON'BLE MR. JUSTICE M.M.S.BEDI

Present : Mr. Sudeep Mahajan, Advocate for the petitioner
Ms. Daya Chaudhary, Advocate for respondent No.1
Mr. S.K.Bhanot, Senior DAG Punjab
Mr. I.S.Sidhu, Advocate

M.M.KUMAR, J.

Out of this bunch of petitions, one writ petition No. 1262 of 2005 was requisitioned by transfer to the Hon'ble Supreme Court and it was taken up along with S.L.P. Directed against a Division Bench judgment of this Court in **Anu Lumba vs. Union of India and others (CWP No. 11275 of 1998)** decided on 16.3.2001. It is pertinent to mention here that while entertaining the Special Leave Petition against the Division Bench Judgment of this Court in Anu Lumba's case (supra), the Hon'ble Supreme Court has issued notice only with regard to the question whether the Division Bench could have issued direction for regularisation of services of the persons similarly situated as the petitioner. The prayer made in Special Leave Petition directed against the judgment of the Division Bench with regard to other relief was rejected.

It is further pertinent to mention here that a perusal of the judgment in Anu Lumba's case (supra), would show that the Division Bench has granted two reliefs to those who are similarly situated to the petitioners. Firstly, the Division Bench has issued direction that those persons be paid at the minimum rate of Rs.5000/- per month w.e.f. 1.8.1998. The respondents were also directed to regularise the services of the petitioner with further stipulation to fix an appropriate pay scale and she was to be placed in that scale. The aforementioned direction was tampered with another condition that emoluments of the petitioner shall not be below Rs. 5500/- per month.

The question with regard to regularisation has been decided against petitioner in Civil Appeal No. 7051 of 2002 along with a number of others civil appeals which has been placed on record by Mr. I.S.Sidhu, learned counsel for the respondents as Mark-A. The relief of regularisation has been declined by the Hon'ble Supreme Court in view of the dicta of the Constitution Bench view in **Secretary, State of Karnataka vs. Uma Devi (2006) 4 SCC 1.**

In the present case, the petitioner has sought direction to the respondent s to grant them the pay scale admissible to an Instructor working under the Government of Punjab from the date of appointment as Instructor under the scheme. A further prayer has been made for regularisation of his services from the date of initial appointment with all consequential benefits.

In view of the judgment of the Hon'ble Supreme Court expressed in similar matter in Civil Appeal No. 7051 of 2002 decided on 8.8.2006, the relief of regularisation of services cannot be granted to the petitioner. Accordingly, to that extent, the prayer made by the petitioner is rejected. However, the prayer with regard to grant of pay has to be allowed

in view of the Division Bench judgment of this Court in Anu Lumba's case (supra) as it has been upheld by Their Lordships.

Accordingly, the petitioner would be entitled to fixation of his salary at the rate of Rs. 5000/- per month as had been directed by the Division Bench of this Court. He shall be entitled to the payment of the aforementioned amount from 1.6.2005 as per the directions issued in Anu Lumba's case (supra) and confirmed by the Hon'ble Supreme Court.

The writ petition stands disposed of in the above terms.

(M.M.Kumar)
Judge

September 29, 2006
'ravinder'

(M.M.S.Bedi)
Judge